

## DEPARTMENT OF FINANCE BILL ANALYSIS

**AMENDMENT DATE:** July 15, 2010  
**POSITION:** Neutral, note concerns

**BILL NUMBER:** AB 2671  
**AUTHOR:** P. Cook

### **BILL SUMMARY:** CIT: Minimum Franchise Tax Exemption: Deployed Military

Under this bill, for tax years 2010 through 2017, a limited liability company (LLC) with an annual income of \$250,000 or less, which is owned by a deployed member of the United States Armed Forces, and is operating at a loss or has ceased operations, would be exempt from paying the \$800 annual tax or minimum franchise tax (MFT).

### **FISCAL SUMMARY**

The Franchise Tax Board (FTB) estimates the revenue impact of this measure to be less than \$100,000 annually. The underlying assumptions (see Fiscal Analysis) result in a revenue loss of \$48,000. According to the FTB, administrative costs associated with implementation would be absorbable.

### **SUMMARY OF CHANGES**

Amendments to this bill since our analysis of the June 30, 2010 version are minor and do not alter our position.

### **COMMENTS**

This bill would provide some tax relief to deployed member of our nation's Armed Services who own small businesses that are operating at a loss during the time of their deployment.

Finance notes that the although the annual revenue loss could be relatively minor – in the range of \$50,000 to \$100,000 – it is a loss to the General Fund at a time when the state faces very hard choices during this time of fiscal crisis.

Analyst/Principal (0724) R. Lawrence	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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**ANALYSIS****A. Programmatic Analysis**

**Under current law**, the basic tax rate for corporations is 8.84 percent of net income. Current law also imposes a MFT of \$800 that must be paid only if the computed tax liability (8.84 percent times net income) is less than \$800 for that tax year. New corporations are exempt from paying the MFT during their first year of business.

The MFT is not an income tax but instead a tax to ensure that all corporations, whether they are profitable or not, pay at least a minimum amount for the privilege of doing business in this state. The MFT has been \$800 since 1990.

Limited partnerships, limited liability companies, and limited liability partnerships are also subject to the MFT but are not exempt from paying the MFT during their first year of business. LLCs that are not corporations pay an annual tax (not MFT) of \$800.

**This bill**

Specifies that a LLC would not be subject to the \$800 annual tax/MFT for a taxable year if the following criteria are met:

The LLC is solely owned by a deployed member of the United States Armed Forces, and is a small business making \$250,000 or less annually.

The LLC operates at a loss or ceases operation

“Deployed” means being called into active duty or active service during a period when a Presidential Executive order specifies that the United States is engaged in combat or homeland defense.

“Operates a loss” means a LLC’s expenses exceeds its receipts

“Small business” means a LLC with total income derived from or attributable to this state of \$250,000 or less

“Ceases operation” as defined by the FTB.

**This bill** would take effect immediately as a tax levy and would sunset on January 1, 2018.

**B. Fiscal Analysis**

The FTB estimates the revenue impact of this measure to be less than \$100,000 annually. FTB’s estimate is based on the following data and assumptions:

Data from the Veterans Administration indicating there are 16,870 deployed members of the United States Armed Forces with California home addresses as of December 31, 2008

From this it is estimated that about 60 corporations and limited liability companies would either cease operation, or operate at a loss

The revenue loss is estimated to be \$48,000 per year (60 x \$800)

According to the FTB, administrative costs associated with implementation would be absorbable.

**BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)****Form DF-43****AUTHOR****AMENDMENT DATE****BILL NUMBER**

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Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2010-2011	FC	2011-2012	FC	2012-2013	Code
1104/Corp Tax	RV	Yes	U	\$50 - 100	U	\$50 - 100	U	\$50 - 100	0001
1730/FTB	SO	No		----- No/Minor Fiscal Impact -----					0001